
IN THE MATTER OF INTERNATIONAL ACADEMY OF HAIR DESIGN AND TECHNOLOGY,
Respondent.

Docket No. 93-124-ST

Student Financial Assistance Proceeding

DECISION

Appearances: E. Pete Summerfield, Esq., for the International Academy of Hair Design and Technology.

Karla Y. Byrd, Esq., Office of the General Counsel for the Office of Student Financial Assistance Programs, United States Department of Education.

Before: Judge Richard F. O'Hair

BACKGROUND

On September 16, 1993, the Office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (Department) issued a Notice of Intent to Terminate the eligibility of International Academy of Hair Design and Technology ("the Academy") to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.*

The Academy filed a request for hearing on October 1, 1993. A briefing schedule was issued to the parties, who have filed briefs and exhibits. [See footnote 1 /](#) On July 22, 1994, this proceeding was reassigned to the undersigned.

DISCUSSION

The termination notice states that it is based upon a notice from the Accrediting Commission for Trade and Technical Schools of the Career College Association (ACTTS/CCA) withdrawing the institution's accredited status as of April 6, 1993. Therefore, a brief discussion of the events that led up to the termination notice is necessary. These events do not appear to be in dispute.

On October 14, 1992, a team of inspectors from ACTTS/CCA issued a Team Report for the Academy that identified various problems found at the institution. Ex. R-4. The Academy was given the opportunity to file detailed responses to the Team Report, along with supporting documentation, by November 16, 1992, which it did. Ex. R-5. Nonetheless, on February 3, 1993, ACTTS/CCA sent a letter to the Academy stating that it had voted to deny the school renewal of accreditation and to remove the Academy from ACTTS/CCA's list of accredited schools. Ex. R-6. By letter of March 10, 1993, the Academy appealed ACTTS/CCA's decision to the Appeals Panel of ACTTS/CCA. Ex. R-7. On April 6, 1993, the Appeals Panel notified the Academy that it had denied the school's appeal of ACTTS/CCA's decision to deny the school renewal of accreditation and to remove the school from ACTTS/CCA's list of accredited schools. Ex. R-8. That very same day, ACTTS/CCA notified the Department that the Academy had been removed from the accredited list of ACTTS/CCA. ED Ex. B. The institution moved for reconsideration of this decision on May 21, 1993. Ex. R-9. After another meeting, ACTTS/CCA sent a letter to the Academy, dated June 25, 1993, stating that it had denied the Academy's request for reconsideration and was upholding its original decision to deny the Academy renewal of accreditation. Ex. R-10. On August 18, 1993, the Department imposed an emergency action against the Academy, thereby barring the Academy's further participation in the Title IV, HEA student financial assistance programs. ED Ex. A. On September 16, 1993, SFAP issued the notice of intent to terminate eligibility that is at issue in this proceeding. Ex. R-11; ED Ex. C.

The Academy concedes that accreditation is a requirement for participation in Title IV programs. Resp. Initial Br. at 8; §§ 600.5(a)(6), 600.2 (1993) [See footnote 2 2](#); 20 U.S.C. §§ 1085, 1088, and 1141 (1988). The Academy further admits that ACTTS/CCA denied the school renewal of accreditation and removed the school from ACTTS/CCA's list of accredited schools. Resp. Initial Br. at 3-5, 22-24; Resp. Reply Br. at 11-12. Finally, the Academy acknowledges that the ACTTS/CCA is recognized by the Department as an independent accrediting agency. Resp. Initial Br. at 8-9; *see also* SFAP Initial Br. at 5 n.3. Nonetheless, the Academy argues that I should consider the reasonableness of ACTTS/CCA's withdrawal of accreditation from the school. Additionally, the Academy makes many assertions concerning the quality of its educational program and the effect that termination would have upon its students and the community.

However, § 600.41(g)(1) (1993) [See footnote 3 3](#) states as follows:

(g)(1) In any proceeding under this section to terminate the eligibility of an institution, location, or educational program on the ground that the institution, location, or educational program no longer meets applicable requirements in this part with regard to accreditation or legal authorization, the sole issue that may be considered is whether the institution lacks the requisite accreditation or legal authorization. The hearing official has no authority to consider challenges to the propriety of the action of the accrediting agency or governmental agency in revoking, terminating, or modifying that accreditation or legal authorization.

This language is very clear. The hearing official cannot consider challenges to the propriety of the decision by ACTTS/CCA to deny the Academy accreditation and to remove it from its list of accredited schools. Nor does the regulation require any independent fact-finding by the Department. Additionally, as SFAP notes at pages 4-7 of its reply brief, the loss of accreditation by an institution is different from termination by an institution's guaranty agency. Accreditation by an institution's accrediting agency is an institutional eligibility requirement, and proceedings relating to the loss of such accreditation are governed by § 600.41(g)(1). In contrast, disqualification actions by a guaranty agency and the Department's limited review in response are governed by §682.713 (1993), 20 U.S.C. §§ 1082(h)(3) and 1078(b)(1)(T) (1988). Therefore, the Academy's citation to *In the Matter of RS Men's Hair Styling, Inc.*, Dkt. No. 91-42-ST, U.S. Dep't of Educ. (Nov. 17, 1992), *aff'd* (Decision of the Secretary, Feb. 9, 1993) and *In Re Michigan Paraprofessional Training Institute*, Dkt. No. 90-7-ST, U.S. Dep't of Educ. (Feb. 22, 1991), *aff'd* (Decision of the Secretary, Aug. 29, 1991) is inapposite because these decisions relate to disqualification actions under 20 U.S.C. § 1082(h)(3). The current proceeding is a termination action imposed by the Department in response to the withdrawal of the Academy's accreditation and, as such, it is governed by 34 C.F.R. § 600.41(g)(1).

Since the Academy admits that it is no longer accredited by ACTTS/CCA and, thus, no longer meets applicable requirements with regard to accreditation, pursuant to § 600.41(g)(1), termination is warranted.

FINDINGS

I find that termination of the eligibility of the International Academy of Hair Design and Technology to participate in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended, is warranted.

ORDER

On the basis of the foregoing, it is hereby ORDERED that the eligibility of International Academy of Hair Design and Technology to participate in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended, be terminated.

Judge Richard F. O'Hair

Issued: August 4, 1994
Washington, D.C.

S E R V I C E

A copy of the attached initial decision was sent by **CERTIFIED MAIL, RETURN RECEIPT REQUESTED** to the following:

E. Pete Summerfield, Esq.
Summerfield, Willen, Silverberg & Limsky, P.A.
10019 Reisterstown Road, Suite 301
Owings Mills, MD 21117

Karla Y. Byrd, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Ave., S.W.
FOB-6, Room 4083
Washington, D.C. 20202-2110

[Footnote: 1](#) 1 Respondent's exhibits will be referred to as Ex. R-1, etc. SFAP's exhibits will be referred to as ED Ex. A, etc.

[Footnote: 2](#) 2 Unless otherwise noted, all citations are to 34 C.F.R.

[Footnote: 3](#) 3 The Academy argues, at pages 9-10 of its reply brief, that because § 600.41(g)(1) refers to proceedings to terminate the eligibility of an institution "under this section," the dictates of § 600.41(g)(1) do not apply to the present termination action under 34 C.F.R. Part 668, Subpart G. This argument is misplaced. § 600.41(a) authorizes the Secretary of Education to terminate the eligibility of an institution to participate in the Title IV, HEA programs if the Secretary believes that an institution that was previously designated as an eligible institution does not satisfy the requirements of an eligible institution. In so doing, § 600.41(a) specifically refers to various regulations governing termination actions contained in 34 C.F.R. Part 668, Subpart G. Therefore, § 600.41(g)(1) applies to proceedings "under this section" (§ 600.41) to terminate the eligibility of an institution "in accordance with the procedural provisions in 34 CFR 668.81, 668.83, 668.86, 668.87, 668.88, 668.89, 668.90(a) (1), (4) and (c) through (f), and 668.91 . . ." § 600.41(a). As the Academy itself notes at page 9 of its reply brief, the instant proceeding is governed by these regulations, including § 668.86(b), and thus is also governed by § 600.41(a) and (g)(1).